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## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

09/28/2009

Duke Yee  
Yee & Associates P C  
4100 Alpha Road Suite 1100  
Dallas, TX 75244

EXAMINER

LASTRA, DANIEL

ART UNIT

PAPER NUMBER

3688

DATE MAILED: 09/28/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/879,491

06/12/2001

Frederick D. Busche

RSW920000174US1

5033

TITLE OF INVENTION: METHOD AND SYSTEM FOR PREDICTING CUSTOMER BEHAVIOR BASED ON DATA NETWORK GEOGRAPHY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	12/28/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

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B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE  
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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7590

09/28/2009

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Duke Yee  
Yee & Associates P C  
4100 Alpha Road Suite 1100  
Dallas, TX 75244

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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nonprovisional	NO	\$1510	\$300	\$0	\$1810	12/28/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
LASTRA, DANIEL	3688	705-014000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_

3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date \_\_\_\_\_

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Yee & Associates P C  
4100 Alpha Road Suite 1100  
Dallas, TX 75244

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1488 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1488 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/879,491	BUSCHE, FREDERICK D.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL LASTRA	3688	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 05/28/2009.
2. ☒ The allowed claim(s) is/are 1-8,10-22,24-28,41-43.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|---|

/DANIEL LASTRA/  
Primary Examiner, Art Unit 3688

### DETAILED ACTION

1. Claims 1-8, 10-22, 24-28 and 41-43 have been examined. Application 09/879,491 (METHOD AND SYSTEM FOR PREDICTING CUSTOMER BEHAVIOR BASED ON DATA NETWORK GEOGRAPHY) has a filing date 06/12/2001.

### REASON FOR ALLOWANCE

2. Due to Board Decision filed 05/28/2009, the Application is allowed as the Board found that the prior arts Menon (US 5,537,488), Wu (US 6,741,967) and Appellant's background of the Invention do not teach Appellant's invention.

### EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Wayne P. Bailey on 09/21/2009.

1. (Currently Amended) A data processing machine implemented method of selecting data sets for use with a predictive algorithm based on data network geographical information, comprising data processing machine implemented steps of:

generating, by the data processing machine, a first statistical distribution of a training data set;

generating, by the data processing machine, a second statistical distribution of a testing data set;

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using, by the data processing machine, the first statistical distribution and the second statistical distribution to identify a discrepancy between the first statistical distribution and the second statistical distribution with respect to the data network geographical information by comparing at least one of the first statistical distribution and the second statistical distribution to a statistical distribution of a customer database to determine if at least one of the training data set and the testing data set are geographically representative of a customer population represented by the customer database;

modifying, by the data processing machine, selection of entries in one or more of the training data set and the testing data set based on the discrepancy between the first statistical distribution and the second statistical distribution; and

using the modified selection of entries by the predictive algorithm.

2. The method of claim 1, wherein the first statistical distribution and the second statistical distribution are distributions of a number of data network links from a customer data network geographical location to a web site data network geographical location.

3. The method of claim 1, wherein the first statistical distribution and the second statistical distribution are distributions of a size of a click stream for arriving at a web site data network geographical location.

4. The method of claim 1, wherein comparing the first statistical distribution and the second statistical distribution includes comparing one or more of a mean, mode, and

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standard deviation of the first statistical distribution to one or more of a mean, mode, and standard deviation of the second statistical distribution.

5. The method of claim 1, wherein the first statistical distribution and the second statistical distribution are distributions of a weighted data network geographical distance between a customer data network geographical location and a web site data network geographical locations.

6. The method of claim 1, wherein the first statistical distribution and the second statistical distribution are distributions of a weighted click stream for arriving at a web site data network geographical locations.

7. The method of claim 1, wherein modifying selection of entries in one or more of the training data set and the testing data set includes generating recommendations for improving selection of entries in one or more of the training data set and the testing data set, and wherein the method of claim 1 further comprises re-generating at least one of the first statistical distribution and the second statistical distribution based upon the recommendations.

8. The method of claim 1, wherein the training data set and the testing data set are selected from a customer information database comprising information with respect to customers who have purchased any of goods and services over a data network, wherein the data network geographic information pertains to geographic information of the data network.

10. The method of claim 1, wherein the first statistical distribution and second statistical distribution are frequency distributions of number of data network links

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between a customer geographical location and one or more web site data network geographical locations, and size of a click stream for arriving at one or more web site data network geographical locations.

11. The method of claim 1, wherein comparing at least one of the first statistical distribution and the second statistical distribution to a statistical distribution of a customer database includes: generating a composite data set from the training data set and the testing data set; and

generating a composite statistical distribution from the composite data set that was generated from the training data set and the testing data set.

12. The method of claim 1, wherein modifying selection of entries in one or more of the training data set and the testing data set includes changing one of a random selection algorithm and a seed value for the random selection algorithm, and then re-comparing the first statistical distribution and the second statistical distribution.

13. The method of claim 1, wherein using the modified selection of entries by the predictive algorithm includes training the predictive algorithm using at least one of the training data set and the testing data set if the discrepancy is within a predetermined tolerance.

14. The method of claim 13, wherein the predictive algorithm is a discovery based data mining algorithm.

15. An apparatus for selecting data sets for use with a predictive algorithm based on data network geographical information, comprising:

a statistical engine;



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a comparison engine coupled to the statistical engine, wherein the statistical engine generates a first statistical distribution of a training data set and a second distribution of a testing data set, the comparison engine uses the first statistical distribution and the second distribution to identify a discrepancy between the first statistical distribution and the second distribution with respect to the data network geographical information by comparing at least one of the first statistical distribution and the second statistical distribution to a statistical distribution of a customer database to determine if at least one of the training data set and the testing data set are geographically representative of a customer population represented by the customer database, modifies selection of entries in one or more of the training data set and the testing data set based on the discrepancy between the first statistical distribution and the second distribution, and provides the modified selection of entries for use by the predictive algorithm; and

a predictive algorithm device that uses the modified selection of entries and the predictive algorithm.

16. The apparatus of claim 15, wherein the first statistical distribution and the second statistical distribution are distributions of a number of data network links from a customer data network geographical location to a web site data network geographical location.

17. The apparatus of claim 15, wherein the first statistical distribution and the second statistical distribution are distributions of a size of a click stream to arrive at a web site data network geographical location.

18. The apparatus of claim 15, wherein the comparison engine compares the first statistical distribution and the second statistical distribution by comparing one or more of a mean, mode, and standard deviation of the first statistical distribution to one or more of a mean, mode, and standard deviation of the second statistical distribution.

19. The apparatus of claim 15, wherein the first statistical distribution and the second statistical distribution are distributions of a weighted number of data network links between a customer data network geographical location and a web site data network geographical location.

20. The apparatus of claim 15, wherein the first statistical distribution and the second statistical distribution are distributions of a weighted size of a click stream to arrive at a web site data network geographical location.

21. The apparatus of claim 15, wherein the comparison engine modifies selection of entries in one or more of the training data set and the testing data set by generating recommendations for improving selection of entries in one or more of the training data set and the testing data set, and wherein the statistical engine re-generates at least one of the first statistical distribution and the second statistical distribution based upon the recommendations.

22. The apparatus of claim 15, further comprising a training data set/testing data set selection device that selects the training data set and the testing data set from a customer information database comprising information with respect to customers who have purchased any of goods and services over a data network, wherein the data network geographic information pertains to geographic information of the data network.

24. The apparatus of claim 15, wherein the first statistical distribution and second statistical distribution are frequency distributions of a number of data network links between a customer data network geographical location and one or more web site data network geographical locations, and a size of a click stream to arrive at one or more web site data network geographical locations.

25. The apparatus of claim 15, wherein the comparison engine compares at least one of the first statistical distribution and the second statistical distribution to a statistical distribution of a customer database by:

generating a composite data set from the training data set and the testing data set; and

generating a composite statistical distribution from the composite data set that was generated from the training data set and the testing data set.

26. The apparatus of claim 15, wherein the comparison engine modifies selection of entries in one or more of the training data set and the testing data set by changing one of a random selection algorithm and a seed value for the random selection algorithm, and then re-comparing the first statistical distribution and the second statistical distribution.

27. The apparatus of claim 15, wherein the predictive algorithm device is trained using at least one of the training data set and the testing data set if the discrepancy is within a predetermined tolerance.

28. The apparatus of claim 27, wherein the predictive algorithm is a discovery based data mining algorithm.

41. A data processing machine implemented method of predicting customer behavior based on data network geographical influences, comprising data processing machine implemented steps of:

obtaining data network geographical information regarding a plurality of customers, the data network geographic information comprising frequency distributions of both (i) number of data network links between a customer geographical location and one or more web site data network geographical locations, and (ii) size of a click stream for arriving at the one or more web site data network geographical locations; training a predictive algorithm using the data network geographical information; and using the predictive algorithm to predict customer behavior based on the data network geographical information.

42. An apparatus for predicting customer behavior based on data network geographical influences, comprising:

means for obtaining data network geographical information regarding a plurality of customers, the data network geographic information comprising frequency distributions of both (i) number of data network links between a customer geographical location and one or more web site data network geographical locations, and (ii) size of a click stream for arriving at the one or more web site data network geographical locations;

means for training a predictive algorithm using the data network geographical information; and

means for using the predictive algorithm to predict customer behavior based on the data network geographical information.

43. A computer program product in a computer readable medium comprising instructions for enabling a data processing machine to predict customer behavior based on data network geographical influences, comprising:

first instructions for obtaining data network geographical information regarding a plurality of customers, the data network geographic information comprising frequency distributions of both (i) number of data network links between a customer geographical location and one or more web site data network geographical locations, and (ii) size of a click stream for arriving at the one or more web site data network geographical locations;

second instructions for training a predictive algorithm using the data network geographical information; and

third instructions for using the predictive algorithm to predict customer behavior based on the data network geographical information.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT A WEINHARDT can be reached on (571)272-6633. The official Fax number is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DANIEL LASTRA/  
Primary Examiner, Art Unit 3688  
September 21, 2009